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SENITIVE

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SUBJECT: DEMARCHE RESPONSE ON INDONESIA SCHEME FOR PILOTAGE IN THE STRAIT OF MALACCA

REF: A) STATE 112590
B) SINGAPORE 1228
C) CANBERRA 1080
D) VALDEZ-OBRIEN EMAILS

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¶11. (U) This message is Sensitive But Unclassified (SBU). Please protect accordingly.

¶12. (SBU) Summary. The Foreign Ministry (DEPLU) and Transportation Ministry confirmed that the Indonesian pilotage program in the Strait of Malacca (SOM) is an ongoing voluntary program. The program was not vetted within the Indonesian government and the Transportation Ministry announced it in September without DEPLU's knowledge. Moving forward, DEPLU will coordinate an interagency effort to assess future plans for this and other pilotage programs and to draft general guiding principles for pilotage programs. They would present the draft in 2009 to the Tripartite Technical Experts Group (TTEG) and the International Maritime Organization (IMO).

¶13. (SBU) DEPLU acknowledged Indonesia's commitments under the Law of the Sea and said Indonesian pilotage programs will comply with international law - this includes not interfering with existing archipelagic sea lane passage or the rights of sovereign immune vessels (e.g., warships). Notwithstanding this, the Ministry of Transportation and DEPLU believe there is room for voluntary and compulsory pilotage programs in the Strait of Malacca (SOM) or its ports and other Indonesian water bodies. Both agencies point to the Australian Torres Strait program and other compulsory port pilotage programs as precedent. Mission delivered Ref A points. End Summary.

DEPLU to coordinate review of the pilotage program

¶14. (SBU) On December 2, Adam Tugio, DEPLU officer responsible for Law of the Sea and maritime issues in the Directorate for International Treaties, confirmed that the voluntary pilotage program was not coordinated within the Indonesian government prior to public announcements. He noted pilotage programs have been discussed within the TTEG since 2004. Tugio said the TTEG agreed in 2007 to establish guidelines for pilotage programs in the region, but no action was taken. He said the current voluntary program was a Transportation Ministry effort within this context. Tugio added that DEPLU will lead an interagency effort to develop pilotage program guidelines consistent with international law, and develop a first draft of the guiding principles for presentation to the TTEG in 2009 and subsequently to the IMO.

¶15. (SBU) Tugio noted that there are voluntary and compulsory pilotage programs around the world including in the U.S. and the Torres Strait. In response to Ref A points on the Torres Strait, he said consensus was not reached within the Legal Committee or the

Navigation Committee of the IMO on the status of the Torres Strait pilotage program. In terms of future pilotage schemes, Tugio said, in his opinion, sovereign immunity for certain vessels including warships would take precedence over any pilotage program (voluntary or compulsory). He added that any pilotage program will take into account the three existing SOM archipelagic sea lanes. He said Indonesia would consult with IMO before implementing any future pilotage program and would continue to be a faithful party to Law of the Sea.

Transport Ministry looking toward compulsory programs

16. (SBU) On November 7, Captain Purnama S. Meliala, Deputy of the Directorate for Ports and Dredging in the Ministry of Transportation, said the voluntary pilotage program is moving forward, respects international law, and is desired by the SOM users. He said that within two years he would like to make the pilotage program obligatory and expand it to other Indonesian waters (Ref D). He gave the Embassy a copy of the pilotage program implementing regulation, Decree 63, signed December 28, 2007 (sent to OES via email). Purnama said that since the program is voluntary, the Indonesian Government was well within its rights. He added that the program has been implemented since November 1, voluntarily for VLCC (very large crude carriers/"very large ships") between 2 points in the SOM (North of Tanjung Balai Karimun and North of Batam Island) shown on the Decree 63 map attachment. Purnama said the relevant Port Authority (Pelindo I) is operating the program and no fees are being charged yet. The 43 graduated pilots (noted in earlier press reports and Ref D) are running the program. Purnama said his hope is for 600 pilots after 2 years.

17. (SBU) Though the pilotage program is voluntary, Purnama explicitly wants to make it obligatory. He could not explain the legal basis for an obligatory program but said the Indonesian

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government would find a way. He said the Australians are doing the same thing in the Torres Strait. In response to Ref A points on Torres Strait, he said that only the U.S. and Singapore disagree with the Australian program.

Indonesian Rationale

18. (SBU) Purnama said the reasons for the pilotage programs are: a demand for the service by commercial ships, safety and marine environment protection, and evidence that other littoral countries are allowing pilotage services in the SOM. He said commercial ships in the SOM want the pilotage service and that some shipping companies have thanked him for the program. Purnama said piloted ships would be less likely to have accidents. He described a recent ship grounding incident that impacted shipping lanes and could have impacted the environment. Purnama said an increased presence by Indonesian pilots would also increase the security in the SOM (i.e., from pirates). Purnama said Malaysian and Singaporean pilots, some "wearing government uniforms", illegally charge ships for pilot services. He quickly added that the littoral governments deny official involvement in these services. Purnama said that since Malaysians and Singaporeans are currently offering pilotage services illegally, Indonesia is going to do it legally and regulate it.

Opposition to compulsory programs from Senior Advisor

19. (SBU) Indonesian Senior Advisor and Law of the Sea expert Hasim Djalal did not know about the pilotage program as of late October. Djalal's initial reactions to news of the pilotage program were: the program could not apply to ships that were merely transiting (i.e., not entering port), the program would need International Maritime Organization (IMO) approval, and the SOM situation is distinct from that of the Torres Strait.

HUME